

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

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CJ Court

Case : RP No. 12/2026 in
LPA No. 131/2024

Food Corporation of India and others Appellant/Petitioner(s)

Through: Mr. M. K. Bhardwaj, Sr. Adv. with
Mr. A. H. Bhat, Adv.

vs

Sushila Gupta and others Respondent(s)

Through: Mr. Sunil Sethi, Sr. Adv. with
Mr. Paras Gupta, Adv.

**Coram: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE**

ORDER
16.02.2026

CM No. 706/2026

1. This is an application seeking condonation of delay of 59 days in filing the review petition against the judgment dated 15.10.2025 passed by this Court.
2. Notice. Notice waived by Mr. Paras Gupta, learned counsel representing respondents. He submits that he has no objection in case delay in filing the review petition is condoned.
3. For the reasons set out in the application, which is duly supported by an affidavit, the same is allowed. Consequently, the delay of 59 days in filing the review petition is condoned.
4. Application stands disposed of.
5. Main Appeal is taken on board.

1. By way of the instant petition, the petitioner seeks a review of the judgment dated **15.10.2025** rendered by this Court in **LPA No. 131/2024**, primarily on the following grounds:

- A. Because this Hon'ble Court in the Judgment dt. 15.10.2025 has erred in holding that only 23 Kanals and 5 Marlas was allotted to FCI after the land acquisition in the year 1976. In fact, a perusal of the letter dt. 20.1.1977 shows that possession of a total area of 44 Kanals and 5 Marlas was handed over to FCI by the authorities after the land acquisition. This was also clarified in the affidavit dt. 12.12.2023 filed by the Appellants. It is submitted that the finding that only 23 Kanals and 5 marlas was allotted to FCI amounts to an error apparent on the face of the record and is liable to be reviewed. In fact, in the letter dt. 20.1.1977 two sets of land acquired are mentioned, the first set totaling at 20 Kanals and 16 Marlas and the second set totaling at 23 Kanals and 13 Marlas totaling at 44 Kanals and 5 Marlas. This was also clarified by the Appellants through the affidavit filed on 12.12.2023.
- B. Because this Hon'ble Court erred in upholding the Judgment of the Writ Court and in not noticing that the Respondents who claim to have purchased the land in the year 1992 through a registered sale deed dt. 23.10.1992 official translation of which was filed by them shows that neither are the boundaries of the land purchased by them mentioned in the sale deed nor is there any indication as to the Khasra number of the land allegedly purchased by them. Even the extent of the land purchased has not been mentioned in the sale deed and the alleged sale deed seems to be a sham document created only to raise false claims against FCI. Relying on the said sham document for allowing the Writ Petition, it is submitted, amounts to an error apparent on the face of the record and the Judgment dismissing the LPA is liable to be reviewed for this reason.
- C. Because the Judgment of this Hon'ble Court is vitiated due to an error apparent on the face of the record in upholding the claim of forcible occupation of the land by FCI in the absence of any allegations as to how the land was forcibly occupied by FCI in the year 2000 and in the absence of any contemporary evidence supporting the allegations in terms of any complaint lodged with any independent authority or any FIR lodged or any protest made by the Respondents. In case there had been any such incident of forcible occupation, the time and place and the date on which it would have taken place would be known to the Respondents and their failure to give any particulars falsifies their entire stand more particularly when they have changed the year of alleged forcible occupation from 1993 to 2000.
- D. Because the Judgment is also vitiated due to an error that Court not considered the affidavit dt. 12.12.2023 filed by FCI stating that the boundary wall constructed in the year 1978-79 has remained

unaltered except for repairs and maintenance done periodically. Without any change in the boundary wall there can be no question of any further encroachment of land by FCI. This Hon'ble Court failed to notice that there is no description in the Writ Petition as to how forcible occupation of the land was done by FCI without altering its boundary wall and there are no details provided regarding the alleged encroachment and there is also no independent evidence corroborating the allegations.

- E. Because the Appellant has now been able to recover the old documents from its files pertaining to the period which shows that after handing over of the acquired land FCI had taken on lease land from the Railways on which the Railway siding and godowns has been constructed for which it was paying license fees to the Railways.
- F. Because the Appellant has now been able to recover documents pertaining to the construction of the godowns by FCI which shows that the godowns and buildings were constructed in the years 1978 (10000MT), 1983 (6680MT) and 1985 (5000MT) much before the land was purchased by the predecessor in interest of the Respondents in the year 1992 and no construction has been done after the year 1985. Hence the finding given by the Writ Court and upheld by this Hon'ble Court that FCI had constructed godowns in the year 2000 encroaching upon the land belonging to the Respondents amounts to an error apparent on the face of the record and liable to be reviewed.
- G. Because this Hon'ble Court erred to consider the fact the Respondents who claim to have purchased the land in the year 1992 could not have claimed for return of land which was never in their ownership prior to that date and their entire case has been built up on the basis of false and unsubstantiated allegations about FCI forcibly occupying the land either in the year 1993 or in the year 2000 which is falsified due to absence of any independent corroboration of the same.
- H. Because as submitted hereinabove, the land in question was handed over by the State Government after acquisition and the FCI had constructed its boundary wall as per the boundaries demarcated in the map and the boundary wall remains intact even today. It is quite possible that the State Government while handing over possession of the land in the year 1977 may have included additional land which could explain why additional land was found in the survey in the Khasra No. 169/M. Even assuming without admitting this to be true, the Respondent not being the owners of the land in the year 1976 are not entitled to claim either the return of the land or to claim compensation for the same having allegedly purchased the same in the year 1992. However, even this allegation seems to be false because the sale deed in their favour is bereft of particulars like area) boundary description, and extent of land purchased.
- I. Because this Hon'ble Court erred to notice that the Judgment in the Vidhya Devi case is based on the admission by the State Government in that case regarding the illegal occupation of the land and hence the case did not involve any disputed questions of fact unlike in the present case wherein the title and the allegations regarding forcible

occupation of land are all disputed questions of fact which will have to be proved by adducing evidence of the parties.

- J. Because this Hon'ble Court also erred to notice that in the Vidhya Devi case the Hon'ble Supreme Court had after finding that the land was illegally takeover by the State had directed award of compensation under the Land Acquisition Act, 1892 which was in force at the time the illegal occupation took place while in the present case for alleged encroachment in the year 1993/2000 this Hon'ble Court has upheld the direction for proceeding under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. In fact, in the present case the Writ Petition was filed in the year 2004 and same was disposed of only on 28.3.2024. Had there been no delay in disposal of the case the 2013 Act would not have been in force. The Appellants are being prejudiced due to the delay of the Court in disposal of the Writ.”

2. Mr. Bhardawaj, learned Senior Counsel for the appellant, has submitted that this Court, while rendering the judgment sought to be reviewed, has not taken note of the fact that land measuring 1 kanal and 10 marlas comprising survey No. 169 situated at village Channi Himmat Jammu was transferred to petitioners. This court has dealt with this issue in detail in para-16 of the judgment, after taking note of report of revenue Authorities reproduced in para-11 of the judgment. This contention of the learned senior counsel is misconceived. No other ground was urged by him before this court.
3. Be that as it may, even in the ground-A of the petition, it is stated by the petitioners that this Court has erred in holding that only 23 kanals and 5 marlas was allotted to the Food Corporation of India after the land acquisition in the year 1976, whereas a perusal of the letter dated 20.01.1977 shows that the possession of 44 kanals and 5 marlas of land was handed over to Food Corporation of India by the authorities after the land acquisition. So far as this contention of the petitioners is concerned, this Court in para 9 of the judgment has observed that *“to set the record straight, the stand of the appellants, as it is discernible from their response in the writ*

petition, is that land measuring 23 kanals 13 marlas comprising various survey numbers, including survey No. 169 min, measuring 1 kanal and 10 marlas situated at village Channi Himmat, was transferred to the appellants in the year, 1977-78". The findings of this Court were limited to the land in Village Channi Himmat. Since the subject matter of the LPA pertained solely to Channi Himmat, this Court dealt only with the land situated at Channi Himmat and not Channi Rama.

4. As for the petitioners' other contention that the godowns were constructed prior to 1992 when the land was purchased by the predecessor-in-interest of respondents and that the property was improperly defined in the sale deed, these do not constitute valid grounds for a review of the judgment. In essence, the petitioners are seeking to re-agitate a controversy that has already been adjudicated and settled by this Court in the judgment dated 15.10.2025.
5. The issue as to whether this Court has correctly interpreted the stand of either of the parties cannot be a subject matter of review. The scope of review is very limited in nature, and it cannot be extended to the extent of rehearing the issues, already considered and decided by the Court. Even if it is assumed that the view taken by this Court is not correct, still it cannot be a ground for review. The power of review can be exercised for the correction of an error apparent on the face of record but not to substitute a view. Such power can be exercised within the limits specified in the statute governing the exercise of such power. The Hon'ble Supreme Court of India in "**Malleeswari v. K. Suguna and Another**", 2025 SCC OnLine SC 1927, has observed:

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise.

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power.

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record. Such an error is a patent error and not a mere wrong decision. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

17.3 Lastly, the phrase ‘for any other sufficient reason’ means a reason that is sufficient on grounds at least analogous to those specified in the other two categories.

(emphasis added)

6. For what has been discussed hereinabove, we do not find that the petitioners have been able to make out any case for review of the judgment dated 15.10.2025 rendered by this Court in LPA No. 131/2024. The review petition is, accordingly, dismissed.

(RAJNESH OSWAL)
JUDGE

(ARUN PALLI)
CHIEF JUSTICE

JAMMU:
16.02.2026
Rakesh PS

Whether the judgment is speaking:	Yes/No
Whether the judgment is reportable:	Yes/No